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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/524,091	03/13/2000	Jennie Ching	1500P/BC999065	6651
7590 Sawyer Law Group P O Box 51418 Palo Alto, CA 94303		05/15/2007	EXAMINER KOENIG, ANDREW Y	
			ART UNIT 2623	PAPER NUMBER
			MAIL DATE 05/15/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Advisory Action Before the Filing of an Appeal Brief	Application No. 09/524,091	Applicant(s) CHING ET AL.	
	Examiner Andrew Y. Koenig	Art Unit 2623	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 19 April 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
- a) ☐ The period for reply expire _____ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
- Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) ~~as in~~ (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
- (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ They raise the issue of new matter (see NOTE below);
- (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).


4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL -324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
- The status of the claim(s) is (or will be) as follows:
- Claim(s) allowed: _____.
- Claim(s) objected to: _____.
- Claim(s) rejected: 21-40.
- Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____


 Andrew Y. Koenig
 Primary Examiner
 Art Unit: 2623

Continuation of 11. does NOT place the application in condition for allowance because: Applicant's arguments filed 19 April 2007 have been fully considered but they are not persuasive.

The applicant notes that McCoy is not silent as to distributing a local spots from a central site server to one or more remote site servers, since McCoy's local spots are provided at the one or more remote site servers. The examiner notes that this does not teach away from the combination of Esch.

The applicant argues Esch does not teach a plurality of local spots from a central site server to one or more remote site servers prior to playout of a program feed. Specifically in that Esch teaches a standard commercial and not local spots. The examiner disagrees; Esch teaches transmitting customized commercials for local networks inserted into a satellite feed to remote distribution facilities (col. 3, ll. 15 - 36). Esch teaches that the commercials are transmitted from the headend computer to each universal platform, thereby generating a customized commercial (col. 4, ll. 60 -67) (e.g. these commercials are tagged at the transmitter so as to enable the remote sites to retrieve the local customized content and store the content on VTR). It is clear that these are not national commercials but are designated for a particular region. The claimed local spots do not preclude the instant interpretation and local spots is given the broadest reasonable interpretation in light of the specification. Since the claims do not preclude the instant interpretation, the rejection is sustained.

The applicant further argues that the communications processor customizes the commercials through tagging, in that Esch teaches that all customization is accomplished using CACS computers (col. 3, ll. 49 -53), which resides at the headend (fig. 2). The mere fact that Esch permits local content to be combined does not preclude the instant rejection, as the claims do not preclude this scenario.

The applicant further argues that Esch fails to disclose distributing the locally produced content is received from the central site. The examiner disagrees; Esch teaches the local sites receiving the locally produced content from the central site by using tagging (col. 4, ll. 57-67).

The applicant argues that there is no motivation to combine McCoy and Esch in that McCoy clearly teaches away as McCoy clearly discloses local media 426 that is not received from a central site. The examiner disagrees; the mere fact that McCoy teaches an alternative means for receiving local media does not preclude modifying McCoy by receiving local media from other sources, such as taught by Esch. The claims fail to preclude that the local spots can be received from other sources. Further, one of ordinary skill in the art would readily recognize the benefits of using Esch in that provides local advertisements to different regions and reduces the processing at the downlink facility.